

ESTTA Tracking number: **ESTTA224586**

Filing date: **07/16/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91177708
Party	Plaintiff Network Appliance, Inc.
Correspondence Address	Rochelle D. Alpert Morgan, Lewis & Bockius LLP One Market, Spear Street Tower, San Francisco, CA 94105 UNITED STATES srsmith@morganlewis.com, kkappes@morganlewis.com
Submission	Other Motions/Papers
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Signature	/LEW/
Date	07/16/2008
Attachments	059055-9017 - Motion for Change of Party Name (with Proof of Service).PDF (11 pages)(140461 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application Serial No. 78/749,922
Filed November 8, 2005
For the mark **SNAP RESTORE**
Published in the OFFICIAL GAZETTE on February 13, 2007

In the matter of application Serial No. 78/894,811
Filed May 27, 2006
For the mark **ACRONIS SNAP RESTORE**
Published in the OFFICIAL GAZETTE on January 30, 2007

NETWORK APPLIANCE, INC., a Delaware
corporation,

Opposer,

v.

Acronis Inc.,

Applicant.

Opposition No.: 91,177,708

MOTION FOR CHANGE OF PARTY NAME

Opposer, formerly known as Network Appliance, Inc. ("Opposer"), pursuant to T.B.M.P. 512.02, hereby moves to change the title of this Board proceeding to reflect Opposer's name change from Network Appliance, Inc. to NetApp, Inc. In support of its Motion, Opposer submits as evidence of its name change a Delaware Certificate of Merger showing that Network Appliance, Inc. has merged into NetApp, Inc. and a copy of the State of California's Name Change Certificate of Qualification, attached hereto as Exhibits A and B.

Dated: July 16, 2008

MORGAN, LEWIS & BOCKIUS LLP

By: _____

Leigha E. Wilbur
Attorney for Opposer

Rochelle D. Alpert
Leigha E. Wilbur
Morgan, Lewis & Bockius LLP
One Market, Spear Street Tower
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lwilbur@morganlewis.com

EXHIBIT A

Delaware

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The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF OWNERSHIP, WHICH MERGES:

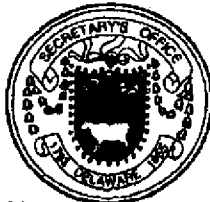
"NETAPP NC CORPORATION", A DELAWARE CORPORATION,
WITH AND INTO "NETWORK APPLIANCE, INC." UNDER THE NAME OF
"NETAPP, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE
LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS
OFFICE THE TENTH DAY OF MARCH, A.D. 2008, AT 6:23 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE
NEW CASTLE COUNTY RECORDER OF DEEDS.

3452743 8100M

080301327

You may verify this certificate online
at corp.delaware.gov/authver.shtml



Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 6438690

DATE: 03-10-08

EXHIBIT A
PAGE 2 OF 5

CERTIFICATE OF OWNERSHIP AND MERGER

MERGING

NETAPP NC CORPORATION,
a Delaware corporation

WITH AND INTO

NETWORK APPLIANCE, INC.,
a Delaware corporation

(Pursuant to Section 253 of the General Corporation Law of Delaware)

Network Appliance, Inc. (the "Corporation"), a corporation incorporated on the 1st day of November, 2001, pursuant to the provisions of the General Corporation Law of the State of Delaware, does hereby certify as follows:

1. That the Corporation is organized and existing under the General Corporation Law of the State of Delaware.
2. That the Corporation owns 100% of the capital stock of NetApp NC Corporation, a Delaware corporation ("Sub") incorporated on the 6th day of March, 2008, pursuant to the provisions of the General Corporation Law of the State of Delaware.
3. That the Corporation determined to merge Sub into itself (the "Merger") by the resolutions of its board of directors attached hereto as Exhibit A, duly adopted on March 3, 2008.
4. Pursuant to Section 253(b) of the General Corporation Law of Delaware the name of the corporation surviving the merger shall be NetApp, Inc.
5. The Merger shall become effective upon filing with the Delaware Secretary of State.

IN WITNESS WHEREOF, the Corporation has caused this Certificate to be signed by its duly authorized officer on this 10 day of March, 2008.

NETWORK APPLIANCE, INC.

By: /s/ Andrew Kryder

Name: Andrew Kryder

Title: Secretary

EXHIBIT A

Resolutions of the Board of Directors of Network Appliance, Inc., a Delaware Corporation

Merger with NetApp NC Corporation.

WHEREAS: The Company owns 100% of the outstanding capital stock of NetApp NC Corporation, a corporation organized and existing under the laws of the State of Delaware ("Merger Sub").

WHEREAS: The Board desires that Merger Sub merge with and into the Company and that the Company possess itself of all the estate, property, rights, privileges and franchises of Merger Sub.

NOW, THEREFORE, BE IT RESOLVED: That the Board hereby authorizes the merger of Merger Sub with and into the Company, with the Company continuing as the surviving corporation (the "Merger").

RESOLVED FURTHER: That upon the effective date of the Merger, the name of the Company shall be changed from "Network Appliance, Inc." to "NetApp, Inc." pursuant to Section 253(b) of the Delaware General Corporation Law.

RESOLVED FURTHER: That upon the effective date of the Merger, the Company shall assume any and all assets, obligations and liabilities of Merger Sub pursuant to Section 253 of the Delaware General Corporation Law.

RESOLVED FURTHER: That each outstanding share of capital stock of Merger Sub will be canceled and extinguished upon the effectiveness of the Merger, and no consideration shall be issued in exchange therefor.

RESOLVED FURTHER: That the officers of the Company be and hereby are directed to make and execute a Certificate of Ownership and Merger setting forth a copy of the resolution to merge Merger Sub with and into the Company and assume Merger Sub's liabilities and obligations, and the date of adoption thereof, and to file the same in the office of the Secretary of State of the State of Delaware.

RESOLVED FURTHER: That the Merger of Merger Sub with and into the Company shall become effective upon the filing of the Certificate of Ownership and Merger with the Secretary of State of the State of Delaware as provided for therein.

RESOLVED FURTHER: That the Certificate of Ownership and Merger in the form attached hereto as Exhibit A be and hereby is approved and adopted in all respects.

RESOLVED FURTHER: That upon the effective time of the Merger, the Amended and Restated Certificate of Incorporation of the Company ("Certificate of Incorporation")

in effect immediately prior to the effectiveness of the Merger shall continue to be the Certificate of Incorporation of the Company; *provided, however*, that the amendment to Article 1 of said Certificate of Incorporation as is effected by the merger is as follows: "The name of this corporation is NetApp, Inc."

RESOLVED FURTHER: That upon the effective time of the Merger, the directors and officers of the Company, as constituted immediately prior to the effectiveness of the Merger, shall continue to be the directors and officers of the Company.

RESOLVED FURTHER: That each stock certificate evidencing the ownership of each share of Common Stock of the Company issued and outstanding immediately prior to the effective time of the merger shall continue to evidence ownership of the shares of the Company.

RESOLVED FURTHER: That each stock certificate evidencing the ownership of Common Stock of Company issued anytime after the effective time of the merger shall be in the form of the stock certificate to be approved by the appropriate officers of the Company.

RESOLVED FURTHER: That the Board hereby authorizes, directs and empowers the appropriate officers of the Company, and each of them, for and on behalf of the Company, to take any and all such actions, and prepare, execute and deliver any and all such documents, including filing of the Certificate of Ownership and Merger, as may be necessary or advisable to carry out the foregoing resolutions, and hereby ratifies and confirms any and all actions taken heretofore to accomplish such purposes.

EXHIBIT B

**State of California
Secretary of State**

**NAME CHANGE
CERTIFICATE OF QUALIFICATION**

C 2370651

I, DEBRA BOWEN, Secretary of State of the State of California, hereby certify that on the 5th day of May, 2008, there was filed in this office an Amended Statement and Designation by Foreign Corporation whereby the corporate name of **NETWORK APPLIANCE, INC.**, a corporation organized and existing under the laws of Delaware, was changed to **NETAPP, INC.**. This corporation complied with the requirements of California law in effect on that date for the purpose of qualifying to transact intrastate business in the State of California and as of said date has been and is qualified and authorized to transact intrastate business in the State of California, subject however, to any licensing requirements otherwise imposed by the laws of this State.

IN WITNESS WHEREOF, I execute
this certificate and affix the Great Seal
of the State of California this day of
May 5, 2008.



Debra Bowen

**DEBRA BOWEN
Secretary of State**

A0676481



State of California
Secretary of State

I, DEBRA BOWEN, Secretary of State of the State of California, hereby certify:

That the attached transcript of 1 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

MAY - 5 2008

Debra Bowen

DEBRA BOWEN
Secretary of State

A0676481

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

MAY - 5 2008

**AMENDED STATEMENT BY
FOREIGN CORPORATION**

NetApp, Inc.

(Name of Corporation)

_____, a corporation organized

and existing under the laws of Delaware, USA, and which is presently
(State or Place of Incorporation)

qualified for the transaction of Intrastate business in the State of California, makes the
following statement:

That the name of the corporation has been changed to that hereinabove set forth and
that the name relinquished at the time of such change was Network Appliance, Inc.

NetApp, Inc.

(Name of Corporation)



(Signature of Corporate Officer)

Andrew Kryder

SVP, Legal & Tax, General Counsel.

(Typed Name and Title of Officer Signing)

Secretary of State Form
ASDC (REV 03/2005)

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**EXHIBIT B
PAGE 4 OF 4**

PROOF OF SERVICE

I, Yelena Lolua, declare:

I am and was at the time of the service mentioned in this declaration, employed in the County of San Francisco, California. I am over the age of 18 years and not a party to this cause. My business address is Spear Street Tower, One Market, San Francisco, California 94105.

On **July 16, 2008**, I served a copy(ies) of the following document(s)

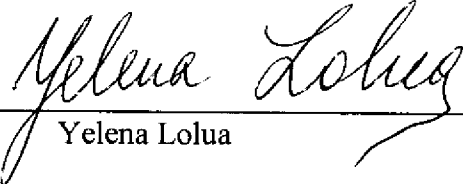
MOTION FOR CHANGE OF PARTY NAME (Opposition No. 91,177,708)

by placing them in a sealed envelope(s) addressed as follows:

**George S. Bardmesser
BARDMESSER LAW GROUP
910 17th Street, N.W.
Washington, DC 20006**

I placed the sealed envelope(s) for collection and mailing by following the ordinary business practices of Morgan, Lewis & Bockius LLP, San Francisco, California. I am readily familiar with Morgan, Lewis & Bockius LLP's practice for collecting and processing of correspondence for mailing with the United States Postal Service, said practice being that, in the ordinary course of business, correspondence (with postage fully prepaid) is deposited with the United States Postal Service the same day as it is placed for collection.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct, and that this declaration was executed on **July 16, 2008**, at San Francisco, California.



Yelena Lolua